THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:3-01-2006

WRIT PETITION No. 133 OF 2006

BETWEEN:

V.Sree Ranga Rao & others

…Petitioners

And

The Sub Registrar,

Bhongir, Nalgonda District.

…Respondent

ORDER:

The petitioners seek to issue a writ of mandamus, directing the respondent to return the stamp duty paid at the time of submitting the document for registration.

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader appearing for the respondent.

It is stated that the first petitioner executed a sale deed in favour of the petitioners 2 to 4, but as they did not pay the consideration, the document was pending registered and it was not released and kept pending. The seller as well as the purchasers wants to cancel the said document bearing No.P 242/2004 and they seek for refund of the stamp duty.

There is a separate procedure under the Indian Stamp Act as well as the Registration Act for refund of stamp duty if both parties come to a conclusion that the sale transaction has not been materialized, subject to fulfillment of certain conditions. But, I am not inclined to consider all those contentions, as the petitioner wants to get the document returned without completion of registration as the sale transaction has not been materialized.

It is stated that there was a dispute with regard to the payment of stamp duty and registration fee on the transferred property and as the transfer has not been materialised, they would like to get back the document presented before the Sub Registrar. It is further stated that the respondent referred the matter for adjudication to the District Registrar, Nalgona with regard to the payment of stamp duty under the Stamp Act and the District Registrar, Nalgona and Collector under Section 47-A of the Indian Stamp Act 1899 issued proceedings dated 24-3-2005 to collect the stamp duty at the rate of Rs.150/- per Sq.yard. It is further stated that neither the purchasers nor the seller wants to pay the said stamp duty as both of them does not want to get the sale deed registered and sought for return of the sale deed pending registration. If the parties to the sale deed does not want to pay the deficit stamp duty and does not want to get the document registered and if they want to get the said documents returned as it is

and where it is condition, there cannot be any objection for the respondent to return the same. Any proceedings by the respective parties can be withdrawn at any stage. If they want to get the sale deed registered, then only they have to pay the deficit stamp duty and registration fee. As the parties do not want to get the sale deed registered by paying the deficit stamp duty and registration fee, there cannot be any objection for the respondent to return the said document.

Having regard to the facts and circumstances of the case, the respondent is directed to return the document No.P 242/2004 as it is without finalizing the registration by making necessary endorsement on it.

The writ petition is disposed of accordingly. No costs.

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V.ESWARAIAH, J

Date: 03-01-2006.

Note:-

Issue CC in two days.

Bo

Shr.